

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY APPLICATION No 298 of 1996

in

COMPANY PETITION No 75 of 1978

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.PANDIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? Yes
2. To be referred to the Reporter or not? No
3. Whether Their Lordships wish to see the fair copy of the judgement? No
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No
5. Whether it is to be circulated to the Civil Judge? No

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TARANGBHAI J. SUTARIA

Versus

O.L. OF NEW JEHANGIR VAKIL MILLS LTD.

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Appearance:

MR JT TRIVEDI for Petitioner  
OFFICIAL LIQUIDATOR for Respondent No. 1  
SERVED for Respondent No. 2, 4  
MS PJ DAVAWALA for Respondent No. 3

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CORAM : MR.JUSTICE S.D.PANDIT

Date of decision: 05/02/97

ORAL JUDGEMENT

This application is filed by one Tarangbhai J. Sutaria. It is the claim of the applicant that he is one of the guarantors of the company viz. M/s New Jehangir Vakil Mills Ltd. Said company has been wound up by the order of this court in Company Petition No.. 75 of 1978. It is the claim of the applicant that a civil suit was filed by the respondent no.2 State Bank of Saurashtra bearing special civil suit No. 48/82 in the court of the learned Civil Judge (SD), Bhavnagar and said suit is now stands transferred to the Debt Recovery Tribunal, Ahmedabad. This application is filed by him seeking a direction of this court to the OL who has been appointed by this court to give details regarding the transaction concerning the assets of the respondent no.1 company and to file a detailed statement either before this court or before the Debt Recovery Tribunal and to direct the OL to give accounts of the amounts received from the State Government and the Gujarat Textile Corporation.

2. When this application came up for hearing before me the learned advocate for the applicant was asked to state as under what provisions and in what capacity the applicant has filed the present application before this court. The learned advocate for the applicant states that the application is in the nature of a creditor for contingent debt and therefore, present application should be entertained. The applicant could not be treated to be a creditor of the company on this date. It could not be said at this stage as to whether any decree will be passed against the applicant guarantor but even assuming that a decree is passed and if the amount is recovered from him, then he will be entitled to get reimbursement of the amount paid by him. That right will accrue to him only after he makes payment of the decree happened to be passed against him. But as the position stands today, he is not a creditor of the company in question and therefore, the application deserves to be rejected. This application is therefore, summarily rejected with no order as to costs.

(S.D.Pandit.J)